

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Robert W. Hassett, III,
Petitioner

v.

Civ. Act. No. 05-609-JJF

Richard Kearney,
Warden, and Julie Brady,
Attorney General For
the state of Delaware,
respondent.



Motion to Dismiss

Pursuant to the Federal Rules of civil Procedure, petitioner moves for a dismissal of respondents motion for an extension of time to file an answering brief, to petitioners opening brief. In support, the petitioner states the following:

1) The respondents were notified

and giving copies of petitioners habeas corpus in a timely manner to reply.

2) The court ordered a 45 day time limit to prepare and file an answer to the petition. Giving that the respondents already knew of the petition and its facts. That was ample enough time to file. As it stands, respondents have until November 28, 2005, to file.

3) According to Federal Rules of Procedure, "a respondents work load is not a sufficient reason for delay or for an extension of time request"; Nor does a respondents holiday vacation count as a grievous or extreme reason to warrant an extension of time, as the time set by the courts include this.

4) Although it is stated in Habeas Rule 4, that the court has the discretion to give respondents an extension of time exceeding the 40-day limit in civil Rule 81 (a) (2). It is not to be abused by the respondents to fit their work ethics or

personal life interests'. The Habeas Rules were formed to protect the legality of rights provided under the U.S. constitution. And according to the Habeas rules and the U.S. constitution; the reasons for an extension of time must be extreme in nature or apply to the case in question; e.g. materials are in a position that is not obtainable without this extension.

5) Although this is the respondents first request for an extension of time. It is improper and misguided in nature as to the Federal Rules of Civil Procedure.

6) Petitioner submits that respondents motion for extension of time, be dismissed and order be set that respondents answering brief is still due by Nov. 28, 2005. Petitioner submits herewith a proposed order.

Date Nov, 21, 2005

Robert W. Hassett III
 SB# 337363
 PRO-SE
 P.O. Box 500 S.C.F.
 Georgetown, Del. 19847

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civ. Act. No. 05-609-JJF

Richard Kearney,
warden, and M. Jane Brady,
Attorney General, for the
state of Delaware,
respondent,

ORDER

This _____ day of _____, 2005.

Whereas, petitioner having requested
a dismissal of respondents motion for
extension of time to file an answer, and

Whereas, appearing to the court
that the request for dismissal is timely,
(in accordance to relieving respondents

motion for an extension of time, and has been in accordance with Federal Rules of civil Procedure. As well as having shown good cause for dismissal.

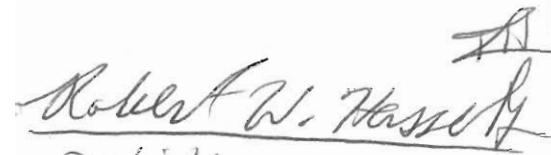
It is hereby ordered that the respondents request for extension of time is denied, and answer shall be filed on or before November 28, 2005, as previously ordered.

UNITED States District Judge

Rule 7.1.1 CERTIFICATION

I, hereby certify that I have neither sought nor obtained the consent of the respondents, who is the warden, and attorney General, to the subject matter of this motion.

Date: Nov. 21, 2005


Petitioner
Pro-se.

Certificate of Service

I, hereby certify that on Nov. 21, 2005; I mailed in the U.S. postage service at S.C.I. prison, a motion for dismissal of motion for extension of time for respondents to file an answer. I have mailed by U.S. service two copies of the same documents to the following:

Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street.
Wilmington, Del. 19801

Robert W. Hassett II
SB# 337363
Pro-Se
P.O. Box 500 S.C.I.
Georgetown, Del 19842

I/M: Robert Hassett BLDG: MSB-ISC, 1

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19801